

Department of Energy

970.1706-1

the contractor and through subcontracting are considered and any different requirements for the same work are reconciled.

(e) Approval. The contracting officer shall approve all plans and revisions thereto. Once approved, a make-or-buy plan shall remain effective for the term of the contract (up to a period of five years), unless circumstances warrant a change.

(f) Administration. The contractor's performance against the approved make-or-buy plan shall be monitored to ensure that:

(1) The contractor is complying with the plan;

(2) Items identified for deferral decisions are addressed in a timely manner; and

(3) The contractor periodically updates the make-or-buy plan based on changed circumstances or significant new work.

970.1504-5 Solicitation provision and contract clauses.

(a) The contracting officer shall insert the clause at 48 CFR 970.5215-1, Total Available Fee: Base Fee Amount and Performance Fee Amount, in management and operating contracts, and other contracts determined by the Procurement Executive, or designee, that include cost-plus-award-fee arrangements.

(1) The contracting officer shall include the clause with its Alternate I when the award fee cycle consists of two or more evaluation periods.

(2) The contracting officer shall include the clause with its Alternate II when the award fee cycle consists of one evaluation period.

(3) The contracting officer shall include the clause with its Alternate III when the DOE Operations/Field Office Manager, or designee, requires the contractor to submit a self-assessment.

(4) The contracting officer shall include the clause with its Alternate IV when the DOE Operations/Field Office Manager, or designee, permits the contractor to submit a self-assessment at the contractor's option.

(b) The contracting officer shall insert the clause at 48 CFR 970.5215-2, Make-or-Buy Plan, in management and operating contracts. The contracting

officer may add a sentence at the end of paragraph (d) of the clause to identify where in the contract the make-or-buy plan is located.

(c)(1) The contracting officer shall insert the clause at 48 CFR 970.5215-3, Conditional Payment of Fee, Profit, and Other Incentives—Facility Management Contracts, in all DOE management and operating contracts and other contracts determined by the Procurement Executive, or designee.

(2) The contracting officer shall include the clause with its Alternate I in contracts that do not contain the clause at 48 CFR 952.204-2, Security.

(3) The contracting officer shall include the clause with its Alternate II in contracts that are awarded on a cost-plus-award-fee basis. The contracting officer should consider including the clause with its Alternate II in contracts that are awarded on a multiple fee basis if the cost-plus-award-fee portion of the contract is significant.

(d) The contracting officer shall insert the clause at 48 CFR 970.5215-4, Cost Reduction, in management and operating contracts, and other contracts determined by the Procurement Executive, or designee, if cost savings programs are contemplated.

(e) The Contracting officer shall insert the provision at 48 CFR 970.5215-5, Limitation on Fee, in solicitations for management and operating contracts, and other contracts determined by the Procurement Executive, or designee.

[65 FR 81009, Dec. 22, 2000, as amended at 69 FR 68781, Dec. 10, 2003]

Subpart 970.17—Special Contracting Methods

970.1706 Management and operating contracts.

970.1706-1 Award, renewal, and extension.

(a) *Contract term.* Effective work performance under a management and operating contract is facilitated by the use of a relatively long contract term of up to ten (10) years. Accordingly, management and operating contracts shall provide for a basic contract term not to exceed five (5) years and may include an option(s) to extend the term

for additional periods; provided, that no one option period exceeds five (5) years in duration and the total term of the contract, including any options exercised, does not exceed ten (10) years. The specific term of the base period and of any options periods shall be determined at the time of the authorization to compete or extend the contract. The term "option" as used in this subpart means a unilateral right in the contract by which the Government can extend the term of the contract. Accordingly, except as may be provided for through the inclusion of an option(s) in the contract to extend the term, any extension to continue the contract with the incumbent contractor beyond its term shall only occur when such extension can be justified under one of the statutory authorities identified in 48 CFR 6.302 and when authorized by the Head of the Agency.

(b) *Exercise of option.* As part of the review required by 48 CFR 17.605(b), the contracting officer shall assess whether competing the contract will produce a more advantageous offer than exercising the option. The incumbent contractor's past performance under the contract, the extent to which performance-based management contract provisions are present, or can be negotiated into, the contract, and the impact of a change in a contractor on the Department's discharge of its programs are considerations that shall be addressed in the contracting officer's decision that the exercise of the option is in the Government's best interest. The contracting officer's decision shall be approved by the Procurement Executive and the cognizant Assistant Secretary(s).

(c) *Conditional Authorization of Non-competitive Extension Made Pursuant to Authority Under CICA.* Authorization to extend a management and operating contract by the Head of the Agency shall be considered conditional upon the successful negotiation of the contract to be extended in accordance with the Department's negotiation objectives. The Head of the Contracting Activity shall advise the Procurement Executive no later than 6 months after receipt of the conditional authorization as to whether the Department's objectives will be met and, if not, the

contracting activity's plans for competing the requirement.

970.1706-2 Contract clause.

The contracting officer shall insert the clause at 48 CFR 52.217-9, Option to Extend the Term of the Contract, in all management and operating contracts when the inclusion of an option is appropriate.

970.1707 Work for others.

970.1707-1 Scope.

Pursuant to Section 33 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2053), DOE is authorized to make its facilities available to other Federal and non-Federal entities (sponsors) for the conduct of certain research and development and training activities. Pursuant to the Economy Act of 1932, as amended (31 U.S.C. 1535), or other applicable authority, other Federal entities may request DOE to conduct work. DOE has implemented these and other statutory authorities and requirements in its Work for Others Program. DOE's internal procedures governing the Work for Others Program are described in DOE Order 481.1C, WORK FOR OTHERS (NON-DEPARTMENT OF ENERGY FUNDED WORK).

[69 FR 75003, Dec. 15, 2004]

970.1707-2 Purpose.

The purpose of DOE's Work for Others Program is to:

(a) Provide access for non-DOE entities to highly specialized or unique DOE facilities, services, or technical expertise, when private facilities are inadequate;

(b) Increase research and development interactions among DOE's management and operating contractors and industry in order to transfer DOE technologies to industry for further development or commercialization;

(c) Maintain facility core competencies;

(d) Enhance the science and technology capabilities at DOE facilities; and,

(e) Provide assistance to other Federal agencies and non-Federal entities in accomplishing goals that may otherwise be unattainable and to avoid the